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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,303	06/19/2001	Garry D. Gladstone	GLADS-001A	4813
7663 7590 11/19/2007 STETINA BRUNDA GARRED & BRUCKER 75 ENTERPRISE, SUITE 250 ALISO VIEJO, CA 92656			EXAMINER COLBERT, ELLA	
			ART UNIT 3694	PAPER NUMBER
			MAIL DATE 11/19/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/884,303	<b>Applicant(s)</b> GLADSTONE, GARRY D.	
	<b>Examiner</b> Ella Colbert	<b>Art Unit</b> 3694	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 August 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 and 10-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-7 and 10-28 are pending. Claim 1 has been amended in this communication filed 8/22/07 entered as Response After Non-Final Action.
2. The request for submission of the references on page 11 of the specification has been overcome by Applicant's amendment to the Specification and is hereby withdrawn.
3. The 35 USC 112, second paragraph rejections for claims 1, 2-7, 10, 12-19, 21-26, and 28 and claims 2-7, 11-18, and 20-28 which depend from a rejected base claim have been overcome by Applicant's explanation and amendment and are hereby withdrawn.

### ***Claim Objections***

Claim 1 ( c) is objected to because of the following informalities: Claim 1 ( c) recites "communicating automatically ..., ..., ... trade decision from on-line trading account". This claim limitation would be better recited as "communicating automatically ..., ..., ... trade decision from the on-line trading account". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7 and 10-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,454,104) Steidlmayer et al, hereafter Steidlmayer in view of (US 6,477,647) Venkatraman et al, hereafter Venkatraman and further in view of US 7,020,632) Kohls et al, hereafter Kohls.

Claim 1. Steidlmayer teaches, An automated method of communicating trade orders to a marketplace for financial instruments through an on-line trading account with a financial institution, the method comprising the steps of: (a) receiving from a user trade trigger criteria for use by market analysis software, the market analysis software being configured to electrically receive market data, the trade trigger criteria being related to the market data (col. 4, lines 5-37 and fig. 2 (141)); (b) accessing, without further input from the user the market analysis software to analyze the market data and generate a trade decision in response to the trade trigger criteria being met by changes in the market data, the market data being independent of the trade decision (col. 9, lines 50-col. 10, line 20, fig. 2 (141)). Steidlmayer failed to teach, (c) communicating automatically without further input from the user through use of a computer, a trade order based upon the trade decision from the on-line trading account. Venkatraman teaches, communicating automatically without further input from the user through use of a computer, a trade order based upon the trade decision from the on-line trading account (col. 10, lines 13-29, fig. 2 (24), and fig. 7 (120)). Kohls teaches, a host computer and market analysis software(col. 13, line 23-col. 15, line 35). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify in Steidlmayer the teachings of Venkatraman and Kohls because such a

modification would allow Steidlmayer to receive a response through the computer and to execute the response according to the trade decision.

Claims 2, 12, and 21. Steidlmayer failed to teach, wherein the market analysis software is hosted by an entity different than the financial institution. Venkatraman teaches, The method of Claim 1 wherein the market analysis software is hosted by an entity different than the financial institution (col. 5, lines 30-41 and col. 9, lines 12-18). Steidlmayer disclosed the market analysis software as discussed above in claim 1. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify in Steidlmayer in view of Steidlmayer's teachings of marketing analysis software and with the teachings of Venkatraman and because such a modification would allow Steidlmayer to have the capability to send an e-mail from one entity to another regarding the analysis.

Claims 3, 11, 13, and 20. Steidlmayer failed to teach wherein the on-line trading account is hosted at a web address accessible through a computer network. Venkatraman teaches, wherein the on-line trading account is hosted at a web address accessible through a computer network (col. 1, lines 54-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify in Steidlmayer with the teachings of Venkatraman because such a modification would allow Steidlmayer to have an Internet where a customer can connect with any available method and visit the OTC web page (URL) and trade.

Claims 4, 11, 13, 20, and 23. Steidlmayer failed to teach, wherein the market analysis software is hosted at a web address accessible through a computer network.

Venkatraman teaches, wherein the market analysis software is hosted at a web address accessible through a computer network (col. 9, lines 3-11, fig. 4, fig. 6, and fig. 7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify in Steidlmayer with the teachings of Venkatraman because such a modification would allow Steidlmayer to have an Internet where a customer can connect with any available method and visit the OTC web page (URL) and trade.

Claim 5. Steidlmayer teaches, The method of Claim 4 wherein step (b) includes communicating the trade trigger criteria to the market analysis software via a computer network (col. 4, lines 14-26).

Claims 6. and 15, Steidlmayer teaches, The method of Claim 1 wherein the market analysis software is hosted at a personal computer (col. 3, lines 45-67 and col. 6, lines 56-58).

Claims 7, 18, and 27. Steidlmayer teaches, The method of Claim 1 wherein the trade trigger criteria is based upon a status of the on-line trading account (col. 4, lines 14-22).

Claim 10. This independent claim is rejected for the similar rationale as above for claim 1.

Claim 14. This dependent claim has a step that corresponds to claim 5 above and is rejected for the similar rationale as given above for claim 5.

Claim 16. This dependent claim has a step that corresponds to claim 5 above and is rejected for the similar rationale as given above for claim 5.

Claim 17. Steidlmayer teaches, The system of Claim 10 wherein the market analysis software includes multiple market analysis software, each having a different analysis algorithm associated therewith (col. 12, line 25-col. 14, line 19).

Claim 19. This independent claim is rejected for the similar rationale as given above for claim 7, 10, 16, and 18.

Claim 22. This dependent claim is rejected for the similar rationale as given above for claim 21

Claim 24. This dependent claim is rejected for the similar rationale as given above for claim 17.

Claim 25. This dependent claim is rejected for the similar rationale as given above for claim 16.

Claim 26. This dependent claim is rejected for the similar rationale as given above for claim 14.

Claim 28. this dependent claim is rejected for the similar rationale as given above for claim 1.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hoffman et al (US 2007/0208645) discloses tradestation software and triggers.

### **Inquiries**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741.

Application/Control Number:  
09/884,303  
Art Unit: 3694


Page 7

The examiner can normally be reached on Monday, Wednesday, and Thursday,  
5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

November 13, 2007

  
ELLA COLBERT  
PRIMARY EXAMINER